

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
)	

ORDER EXTENDING SUSPENSION OF EFFECTIVE DATE

Adopted: September 30, 2011

Released: September 30, 2011

By the Commission:

1. In this Order, in response to the September 9, 2011 “Motion to Extend Stay” filed by Gallaudet University (Gallaudet),¹ we grant in part Gallaudet’s Motion and extend the stay of the effective date of Section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission’s rules, as adopted in the Commission’s VRS Practices Report and Order and Further Notice of Proposed Rulemaking,² for an additional 45 days, until November 15, 2011. This rule prohibits certain revenue sharing and subcontracting arrangements involving VRS providers.³ The rule was originally scheduled to become effective on June 1, 2011, but the Commission stayed its effective date until October 1, 2011, by Order released on May 31, 2011.⁴

2. As explained herein, we find good cause to further extend the stay of the effective date of this rule. As Gallaudet notes in its Motion,⁵ on July 28, 2011, the Commission adopted rule revisions in regard to VRS certification requirements in the *iTRS Certification Order*.⁶ By that Order, the Commission revised its requirements and procedures by which entities may become certified VRS providers. The Commission: (1) required all Internet-based relay providers to receive certification from the Commission to be eligible to receive compensation from the Interstate TRS Fund; (2) required that applications for certification include evidence of an applicant’s ability to comply with the Commission’s rules, including those involving the operation of call centers and call distribution facilities; and (3) provided that the certification process include, at the Commission’s discretion, other measures, including on-site visits to the premises of

¹ Gallaudet Motion to Extend Stay, CG Docket No. 10-51, filed September 9, 2011 (requesting a further extension of 90 days following completion of the statutory Paperwork Reduction Act approval process) (Gallaudet Motion)..

² 47 C.F.R. §64.604(c)(5)(iii)(N)(I)(iii); see *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (*VRS Practices R&O*).

³ See *VRS Practices R & O*, 26 FCC Rcd at 5574, ¶ 58.

⁴ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order Suspending Effective Date, 26 FCC Rcd 8327 (2011) (*VRS Revenue Sharing Prohibition Stay Order*). In addition, other rules adopted in the *VRS Fraud Order and FNPRM* became effective on June 1, 2011, except that the rule prohibiting VRS communications assistants from relaying calls from their homes, 47 C.F.R. § 64.604(b)(4)(iii), became effective on August 30, 2011 (120 days after the date of *Federal Register* publication).

⁵ Gallaudet Motion at 2.

⁶ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898 (2011) (*iTRS Certification Order*).

applicants.⁷ The rules adopted in the *iTRS Certification Order* became effective on September 6, 2011, except those containing information collections, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) in order to become effective. The Commission's request for such approval remains pending before OMB.

3. On September 6, 2011, Sorenson Communications, Inc. (Sorenson) filed with OMB Paperwork Reduction Act Comments regarding these revised certification rules.⁸ Also on September 6, 2011, Sorenson filed a Petition for Reconsideration of two aspects of the *iTRS Certification Order*,⁹ AT&T Services, Inc. (AT&T) also filed a Petition for Reconsideration,¹⁰ and Sprint Nextel Corporation filed an Expedited Petition for Clarification.¹¹ As Gallaudet notes in its Motion,¹² the Commission cannot require the submission of and act upon applications for certification unless and until the information collection requirements adopted in the *iTRS Certification Order* become effective. It further notes that even if OMB acts immediately, insufficient time will remain for applicants to prepare their applications, much less have them processed and granted by the current October 1 effective date for the subject rule.¹³ We agree, and conclude that there is good cause to extend the stay while the Commission considers the petitions for reconsideration and clarification,¹⁴ and while our request for OMB approval of the information collection requirements adopted in the *iTRS Certification Order*, which would allow the new certification rules to become effective, remains pending.

4. As we explained in the *VRS Revenue Sharing Prohibition Stay Order*, applicants for VRS certification will be required to come into compliance with all Commission rules governing VRS,¹⁵ including Section 64.604(c)(5)(iii)(N)(1)(iii). When we extended the effectiveness of that rule until October 1, 2011, we did so with the expectation that the new certification process would be in effect sufficiently in advance of that date so that entities would have the opportunity to apply for certification prior to the expiration of the stay and have the opportunity to seek to transition to eligibility in a seamless manner, without any interruption in providing service.¹⁶ In light of the continued pendency of the Commission's request for approval of the rules before OMB, by extending the stay, we will provide such entities the opportunity to apply for certification to become eligible for compensation from the TRS Fund in such a manner. This will avoid the situation in which providers not certified by the Commission will be forced to cease operations without having the opportunity to seek a seamless transition to certification. However, because of our desire to expedite the certification process, in furtherance of our overall objectives of avoiding waste, fraud and abuse in the VRS program through improved Commission oversight of VRS

⁷ See *iTRS Certification Order*, 26 FCC Rcd at 10902-23, ¶¶ 7-61.

⁸ Paperwork Reduction Act Comments of Sorenson Communications, Inc., CG Docket No. 10-51, filed September 6, 2011.

⁹ Sorenson Communications, Inc., Petition for Reconsideration of Two Aspects of the Certification Order, CG Docket No. 10-51, filed September 6, 2011.

¹⁰ AT&T Services, Inc., Petition for Reconsideration of AT&T, CG Docket No. 10-51, filed September 6, 2011.

¹¹ Sprint Nextel Corporation, Expedited Petition for Clarification, CG Docket No. 10-51, filed September 6, 2011.

¹² Gallaudet Motion at 3.

¹³ *Id.* at 3-4.

¹⁴ By Public Notice, the Consumer & Governmental Affairs Bureau sought comment on the Sorenson and AT&T petitions for reconsideration. "Consumer & Governmental Affairs Bureau Notice of Petitions for Reconsideration of the Second Report and Order and Order in CG Docket No. 10-51," Public Notice, DA 11-1590 (September 22, 2011).

¹⁵ See 47 C.F.R. § 64.604 *et. seq.*

¹⁶ *VRS Revenue Sharing Prohibition Stay Order*, 26 FCC Rcd at 8328, ¶ 4; see also *iTRS Certification Order*, 26 FCC Rcd at 10923 (discussing application procedures for subcontracting iTRS providers not currently eligible to receive compensation directly from the Fund, but seeking a seamless transition to certified iTRS provider).

providers,¹⁷ we decline to provide the full 90 day extension sought by Gallaudet. Balancing the interests here, we believe that a 45 day further extension is appropriate and in the public interest. Therefore, the effective date of Section 64.604(c)(5)(iii)(N)(I)(iii) is hereby stayed until November 15, 2011, and the stay shall apply to all covered revenue sharing and subcontracting arrangements involving VRS providers.¹⁸

5. *Persons with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). This *Order* also can be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro/trs.html>.

6. *Congressional Review Act.* The Commission will send a copy of this *Order Extending Suspension of Effective Date* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.¹⁹

7. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, that the effective date of Section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission's rules, 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(iii), as adopted in the VRS Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011), IS STAYED until November 15, 2011.

8. IT IS FURTHER ORDERED, that the Motion to Extend Stay filed by Gallaudet University on September 9, 2011, IS GRANTED IN PART as stated in paragraph 1 herein and IS OTHERWISE DENIED.

9. IT IS FURTHER ORDERED, that this *Order Extending Suspension of Effective Date* is EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁷ *iTRS Certification Order*, 26 FCC Rcd at 10899, ¶ 1.

¹⁸ *See VRS Practices R & O*, 26 FCC Rcd at 5574, ¶ 58.

¹⁹ *See* 5 U.S.C. § 801(a)(1)(A).